

General Order

Houston Police Department



ISSUE DATE:

November 25, 2019

NO.

500-15

REFERENCE: Supersedes all prior conflicting Circulars and Directives, and General Order 500-15, dated March 10, 2014

SUBJECT: CONTACT WITH REPRESENTATIVES OF FOREIGN GOVERNMENTS

POLICY

Employees are obliged under international custom and treaty laws to recognize immunity of certain *diplomats*. However, employees shall not ignore or condone the commission of crimes.

There are different categories of diplomats, some of whom enjoy greater immunities than others. Therefore, on initial contact, employees shall assume diplomats enjoy the privilege of *diplomatic immunity* until it is determined otherwise.

The Criminal Intelligence Division (CID) shall investigate all incidents involving diplomats or persons claiming diplomatic immunity.

This General Order applies to all employees.

DEFINITIONS

Diplomat. A representative of a foreign government or an immediate family member of the representative. This term includes various categories of persons assigned to Embassies, Consulates, or International Organizations (e.g., the United Nations).

Diplomatic Immunity. A principle of international law by which certain foreign government officials are not subject to the jurisdiction of local courts and other authorities for both their official and, to a large extent, their personal activities. Immediate family members may have the same rights and privileges as the diplomat.

Honorary Consuls. American citizens or permanent resident aliens who perform consular services on a part-time basis. Honorary consuls, unlike career consuls, are permitted to engage in other businesses. Honorary consuls have immunity for official acts only and immunity from the obligation to provide evidence as witnesses only in respect to official acts. They do not enjoy personal inviolability and may be arrested if circumstances otherwise warrant. Family members enjoy no immunity or personal inviolability.

The United States Department of State (DoS) is responsible for issuance of official identification cards for all honorary consuls and all representatives of foreign governments.

1 PROCEDURAL GUIDELINES

Personal Inviolability

Whenever a person detained claims to be a *diplomat* or claims to have *diplomatic immunity*, the person's official status shall be verified as described below in the *Responsibilities* subsections.

Until the status of the person is confirmed, officers shall not do any of the following:

- a. Handcuff the person
- b. Search the person
- c. Search any of the person's property
- d. Search the person's vehicle

The only exception to the above policy regarding personal inviolability is if there are circumstances in which the diplomat's safety or public safety is in imminent danger, or it is apparent that a serious crime may be otherwise committed. In these situations, officers may intervene to the extent necessary to halt such activity. This includes the power of officers to defend themselves from personal harm.

Officer's Responsibilities

Whenever an officer is on a scene involving a diplomat or a person claiming diplomatic immunity and the officer needs to detain the person, the officer shall immediately call for a supervisor.

An incident report shall be completed for all incidents involving diplomats no matter the outcome of the event. Upon completion of the incident report, officers shall immediately forward a copy to CID. CID shall forward a copy of the incident report to the DoS.

If an arrest is made of a diplomat, the transporting officer shall notify a jail HPD supervisor of such arrest.

Field Supervisor's Responsibilities

The supervisor notified about a situation concerning a diplomat or a person claiming diplomatic immunity shall immediately go to the scene, collect all relevant information regarding the identity of the person detained, and immediately contact a CID supervisor.

If the incident occurs after normal business hours, the Command Center shall be contacted so that an on-call CID supervisor can be notified. The on-scene supervisor or the Command Center shall brief the CID supervisor of the situation.

If an arrest is made of a diplomat and a supervisor transports the diplomat, the transporting supervisor shall notify a jail HPD supervisor of such arrest.

CID Supervisor's Responsibilities

The CID supervisor who is contacted about an incident concerning a diplomat or a person claiming diplomatic immunity shall contact the DoS to determine the person's immunity status. The CID supervisor shall then forward this information to the field supervisor.

The CID supervisor shall instruct the field supervisor on whether the diplomat is to be released or whether an arrest is permissible.

If the diplomat has immunity status, the investigating officer shall gather pertinent information to complete an incident report and immediately release the diplomat.

If the DoS approves the arrest of an immune diplomat, CID shall immediately contact the Command Center, which shall in turn contact an assistant chief, executive assistant chief, or the Chief of Police to receive authorization for the hold.

Foreign government representatives who do not have diplomatic immunity shall be handled in accordance with established department procedures.

2 TRAFFIC ENFORCEMENT

Stopping a diplomat and issuing a traffic citation does not constitute an arrest or detention and is permitted. However, the diplomat may not be compelled to sign the citation.

In all cases, details of the traffic stop shall be documented in an incident report and forwarded to CID. In addition, a copy of each citation shall be immediately sent to CID via interoffice mail to be handled in accordance with DoS guidelines.

If an officer determines further action beyond the issuance of a traffic citation is warranted necessitating the need to detain such person, the officer shall follow the procedural guidelines set forth above in section 1.

3 DRIVING WHILE INTOXICATED

When a diplomat or person claiming diplomatic immunity is suspected of driving while intoxicated, officers shall follow the procedural guidelines set forth above in section 1.

Diplomats suspected of driving while intoxicated, but believed to have immunity, may be offered field sobriety and intoxilyzer testing. However, the taking of these tests may not be compelled. The results of the testing shall be included in the officer's incident report.

If an officer determines that the diplomat is too impaired to drive safely, the officer shall not permit the individual to continue driving. Depending on the situation, an officer may utilize one of the following options:

- a. Allow a passenger to drive if the passenger is unimpaired and holds a valid driver license.
- b. Allow the diplomat to call an unimpaired person with a valid driver license to drive the diplomat to his destination.
- c. Call a taxi for the individual.
- d. Drive the diplomat to his destination.

4 VEHICLE DISPOSITION

A vehicle of a diplomat with immunity cannot be searched, impounded, or booted. However, if the vehicle presents a public safety issue if left at the scene (e.g., a traffic hazard on the freeway), it may be towed to address the safety concern (e.g., move the vehicle a sufficient distance to clear the freeway).

Thereafter, the highest ranking officer on the scene shall contact a CID supervisor to discuss the proper disposition of the diplomat's vehicle.

The CID supervisor may discuss the proper disposition of a diplomat's vehicle with the DoS on a case-by-case basis.

If a diplomat's vehicle is suspected of being stolen or used by an unauthorized person in the commission of a crime, the vehicle shall be handled as any other vehicle in accordance with department policy.

5 MISCELLANEOUS INFORMATION

Driver Licenses. Diplomats are not required to have a Texas driver license, but are issued a driver license by the Office of Foreign Missions, DoS.

Honorary Consul Special License Plates. The Texas Department of Public Safety may issue special license plates for persons who are honorary consuls authorized by the United States government to perform consular duties.

Inspection Stickers. Inspection stickers are not required on vehicles with DoS license plates.

Insurance. If it is determined that a diplomat's vehicle is being operated without insurance, officers shall contact CID, which shall in turn contact DoS for guidance.

License Plates. Diplomatic vehicles are licensed and registered by the DoS. Such license plates are the property of the DoS and not the property of the diplomat. Whenever an officer receives information about a lost, stolen, or misused diplomatic license plate, an incident report shall be generated immediately and a copy of the incident report shall be forwarded to CID.

Passports (all persons). If an officer receives information about any lost, stolen, or recovered passport, an incident report shall be generated and a copy of the incident report shall be forwarded to CID. Any recovered passport shall be tagged in the Police Department's Property Division.

Prisoners' passports are considered personal property and shall be inventoried with the prisoners' property.


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